

108TH CONGRESS
1ST SESSION

H. R. 2073

To amend title 32, United States Code, to provide assistance to States for the discharge of homeland security activities by the National Guard, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 13, 2003

Mr. GIBBONS introduced the following bill; which was referred to the
Committee on Armed Services

A BILL

To amend title 32, United States Code, to provide assistance to States for the discharge of homeland security activities by the National Guard, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Guaranteeing a United
5 and Resolute Defense Act of 2003”.

1 **SEC. 2. ASSISTANCE FOR NATIONAL GUARD HOMELAND SE-**
2 **CURITY ACTIVITIES.**

3 (a) IN GENERAL.—Title 32, United States Code, is
4 amended by inserting after section 112 the following new
5 section:

6 **“§ 112a. Homeland security activities**

7 “(a) FUNDING ASSISTANCE.—The Secretary of De-
8 fense may provide funds to the Governor of a State that
9 has a homeland security activities plan in effect that satis-
10 fies the requirements of subsection (c). Such funds shall
11 be used for the following:

12 “(1) The pay, allowances, clothing, subsistence,
13 gratuities, travel, and related expenses, as author-
14 ized by State law, of personnel of the National
15 Guard of that State for service performed for the
16 purpose of homeland security while not in Federal
17 service.

18 “(2) The operation and maintenance of the
19 equipment and facilities of the National Guard of
20 the State that are used for the purpose of homeland
21 security.

22 “(3) The procurement of services and the pur-
23 chase or leasing of equipment for the National
24 Guard of that State for use for the purpose of home-
25 land security.

1 “(b) USE OF PERSONNEL PERFORMING FULL-TIME
2 NATIONAL GUARD DUTY.—(1) Under regulations pre-
3 scribed by the Secretary of Defense, personnel of the Na-
4 tional Guard of a State may, in accordance with the State
5 homeland security activities plan, be ordered to perform
6 full-time National Guard duty under section 502(f) of this
7 title for the purpose of carrying out homeland security ac-
8 tivities.

9 “(2)(A) A member of the National Guard serving on
10 full-time National Guard duty under orders authorized
11 under paragraph (1) shall participate in the training re-
12 quired under section 502(a) of this title in addition to the
13 duty performed for the purpose authorized under that
14 paragraph, and may participate in additional training for
15 the purpose of promoting military readiness, to include at-
16 tendance at schools. The pay, allowances, and other bene-
17 fits of the member while participating in such training
18 shall be the same as those to which the member is entitled
19 while performing duty for the purpose of carrying out
20 homeland security activities. The member is not entitled
21 to additional pay, allowances, or other benefits for partici-
22 pating in such training while serving on full-time National
23 Guard duty under orders authorized under paragraph (1).

24 “(B) Appropriations available for the Department of
25 Defense for homeland security activities may be used for

1 paying costs associated with a member’s participation in
2 training described in subparagraph (A). The appropriation
3 shall be reimbursed in full, out of appropriations available
4 for paying those costs, for the amounts paid. Appropria-
5 tions available for paying those costs shall be available for
6 making the reimbursements.

7 “(c) HOMELAND SECURITY ACTIVITIES PLAN RE-
8 QUIREMENTS.—The homeland security activities plan of
9 a State—

10 “(1) shall specify how personnel and equipment
11 of the National Guard of the State are to be used
12 in homeland security activities and include a detailed
13 explanation of the reasons why the National Guard
14 should be used for the specified activities;

15 “(2) shall describe in detail how any available
16 National Guard training facilities, including any dis-
17 tance learning programs and projects, are to be
18 used;

19 “(3) shall include the Governor’s certification
20 that the activities under the plan are to be con-
21 ducted at a time when the personnel involved are not
22 in Federal service;

23 “(4) shall include the Governor’s certification
24 that participation by National Guard personnel in

1 the activities under the plan is service in addition
2 to training required under section 502 of this title;

3 “(5) shall include a certification by the Attor-
4 ney General of the State (or, in the case of a State
5 with no position of Attorney General, a civilian offi-
6 cial of the State equivalent to a State attorney gen-
7 eral) that the use of the National Guard of the State
8 for the activities proposed under the plan is author-
9 ized by, and is consistent with, State law;

10 “(6) shall include the Governor’s certification
11 that the Governor or a civilian official of the State
12 designated by the Governor has determined that any
13 activities to be carried out in conjunction with Fed-
14 eral agencies under the plan are in furtherance of
15 the homeland security activities specified under
16 paragraph (1); and

17 “(7) may provide for the use of personnel and
18 equipment of the National Guard of that State to
19 assist the Directorate of Immigration Affairs of the
20 Department of Homeland Security in the transpor-
21 tation of aliens who have violated a Federal or State
22 law.

23 “(d) RELATIONSHIP TO STATE DRUG INTERDICTION
24 AND COUNTER-DRUG ACTIVITIES PLAN.—A State drug
25 interdiction and counter-drug activities plan referred to in

1 section 112 of this title may be included as an annex to
2 the State's homeland security activities plan. If included
3 as an annex and approved under section 112(d) of this
4 title, the Governor of the State may—

5 “(1) authorize the use of services, supplies, and
6 equipment procured under subsection (a)(3), and
7 personnel performing full-time National Guard duty
8 under subsection (b), to support drug interdiction
9 and counter-drug activities carried out under section
10 112 of this title, if the Governor determines that
11 such use is necessary to accomplish the purposes of
12 the State drug interdiction and counter-drug activi-
13 ties plan and will not adversely affect the perform-
14 ance of homeland security activities; and

15 “(2) authorize the use of services, supplies, and
16 equipment procured under section 112(a) of this
17 title, and personnel performing full-time National
18 Guard duty under section 112(b) of this title, to
19 support homeland security activities carried out
20 under this section, if the Governor determines that
21 such use is necessary to accomplish the purposes of
22 the State homeland security activities plan and will
23 not adversely affect the performance drug interdic-
24 tion and counter-drug activities.

1 “(e) EXAMINATION AND APPROVAL OF PLAN.—The
2 Secretary of Defense shall examine the adequacy of each
3 homeland security activities plan of a State and, if the
4 plan is determined adequate, approve the plan.

5 “(f) ANNUAL REPORT.—The Secretary of Defense
6 shall submit to Congress an annual report on the assist-
7 ance provided under this section during the preceding fis-
8 cal year, including the activities carried out with such as-
9 sistance. The report shall include the following:

10 “(1) A description of the homeland security ac-
11 tivities conducted under homeland security activities
12 plans with funds provided under this section.

13 “(2) An accounting of the funds provided to
14 each State under this section.

15 “(3) An analysis of the effects on military
16 training and readiness of using units and personnel
17 of the National Guard to perform activities under
18 the homeland security activities plans.

19 “(g) STATUTORY CONSTRUCTION.—Nothing in this
20 section shall be construed as limiting the authority of any
21 unit of the National Guard of a State, when such unit
22 is not in Federal service, to perform law enforcement func-
23 tions authorized to be performed by the National Guard
24 by the laws of the State concerned.

25 “(h) DEFINITIONS.—In this section:

1 “(1) The term ‘Governor’, in the case of the
2 District of Columbia, means the commanding gen-
3 eral of the National Guard of the District of Colum-
4 bia.

5 “(2) The term ‘homeland security activities’,
6 with respect to the National Guard of a State,
7 means the use of National Guard personnel, when
8 authorized by the law of the State and requested by
9 the Governor of the State, to prevent, deter, defend
10 against, and respond to an attack or threat of attack
11 on the people and territory of the United States.

12 “(3) The term ‘State’ includes the District of
13 Columbia, the Commonwealth of Puerto Rico,
14 Guam, and the Virgin Islands.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 at the beginning of chapter 1 of such title is amended by
17 inserting after the item relating to section 112 the fol-
18 lowing new item:

“112a. Homeland security activities.”.

19 **SEC. 3. AUTHORITY FOR MEMBERS OF NATIONAL GUARD**
20 **TO PARTICIPATE IN ADDITIONAL MILITARY**
21 **TRAINING WHILE ON ORDERS TO SUPPORT**
22 **COUNTER-DRUG ACTIVITIES.**

23 Section 112(b)(2)(A) of title 32, United States Code,
24 is amended—

1 (1) by inserting after the first sentence the fol-
2 lowing: “The member may participate in additional
3 training for the purpose of promoting military readi-
4 ness, to include attendance at schools.”; and

5 (2) in the last sentence, by striking “in training
6 required under section 502(a)(1) of this title” and
7 inserting “in such training while serving on full-time
8 National Guard duty under orders authorized under
9 paragraph (1)”.

○